



CIVIL LAW TIDBITS

A Monthly Info Sheet

One Page

One Topic

374 AW/JAC

SEPTEMBER 1996

Civil Law What do we do?

An easy definition: If it's not Military Justice or Claims, it's handled by Civil Law

JOB #1: Administrative Discharges

Other Responsibilities:

Barments/Warning Letters
Suspension/Revocation of AAFES or
Commissary Privileges
Front Desk Duties - Powers of
Attorney and Notaries
Legal Assistance
Preventive Law
Labor Law
Legal Reviews of:
FOIA/Privacy Act requests
EOT Complaints
Demotions
Security Incidents/Violations
Commercial Sponsorships
Suspensions/Revocations of
Driving Privileges
Line of Duty Determinations
Private Organization Activities
"Cats & Dogs" (Is it legal?)

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We've noticed that Administrative Demotions are underutilized. We provide the following information simply as a reminder. Administrative Demotion is a tool available to CCs.

Administrative Demotions

1. What is an Administrative Demotion?

Like counseling, reprimands, UIF's, Control Rosters, and Nonjudicial Punishments, it is a tool for maintaining good order and discipline. Demotions are not punitive in nature.

2. What are the bases for demotion?

AFI 36-2503 lists 6 reasons. The more typical reasons are (a) based on skill levels, (b) failure to fulfill NCO responsibilities, and (c) failure to keep fit.

3. Who is the demotion authority?

For E-7 and below - The Group CC or "equivalent" level CC (Colonel).

For E-8 and E-9 - MAJCOM CC.

4. What's the process for demoting an airman?

1st - The squadron CC notifies the airman in writing of the intent to demote (including the recommended grade, specific reason for demotion, summary of facts, right to consult legal counsel). The airman endorses the letter and is given 3 working days to agree or disagree.

2nd - After airman's response, squadron CC must decide whether to

terminate demotion or continue process. If terminating, inform the airman. If continuing, notify the airman in writing.

3rd - Squadron CC summarizes written/oral statements; sends entire case file to MPF for processing.

4th - MPF sends package to demotion authority. Demotion authority obtains legal review before deciding.

5th - MPF notifies squadron CC of demotion decision in writing; obtains airman's acknowledgment. Squadron CC tells airman he/she has retained current grade if demotion is not approved; OR squadron CC notifies airman of demoted grade including Date of Rank (DOR) and effective date of demotion. Airman has 3 working days to acknowledge decision; 3 working days to appeal demotion to appellate authority.

5. What are the grade guidelines for demotion?

a) Demote an E-4 and above no lower than E-3(NCO reduced to an E-4 is a SrA)

Con't on Reverse

GOALS:

We in Civil Law constantly strive to give our customers the best service possible. The following is an evolving list of goals that Civil Law strives to attain:

1. 90% of notification for admin discharge cases processed within 15 days
2. Reduce the days between incident date and initiation for discharges
3. Prepare admin discharge booklet for Commanders and First Sergeants
4. Publish monthly Civil Law info sheet
5. Meeting general suspenses, legal reviews/opinions; Goal - 85%
6. Prepare barment/warning letter within 2 days of receiving report; Goal - 100%
7. Appeals of barment - response within 2 days of receipt; Goal - 100%

We will maintain quality service while reaching these goals.

Con't from Front

Administrative Demotions

- b) Demote E-3 no lower than E-2.
- c) Demote E-2 no lower than E-1

NOTE: Demote by three or more grades **ONLY WHEN** no reasonable hope exists that the airman will ever show the proficiency, leadership, or fitness that earned the initial promotion.

6. What about suspending an administrative demotion?

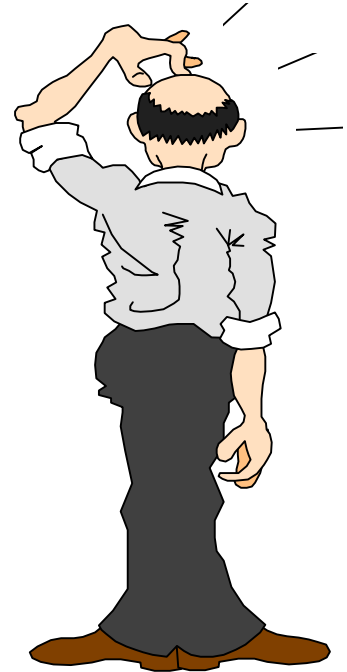
Don't! Demotion authority can restore the airman's original grade, and must do so between 3 months and 6 months after the effective date of demotion.

7. Isn't an administrative demotion the same as a reduction in rank for an Article 15 (NJP)?

No. Reduction in rank is a form of punishment permissible under NJP. Not every airman who receives an Article 15 is reduced in rank.

8. Why is a demotion relevant to an administrative discharge?

When recommending an airman for involuntary separation, the squadron CC must list whether the airman was demoted. If not, the CC must explain why. Don't forget, administrative demotion can be a valuable tool!



DON'T FORGET - WE ARE HERE TO SERVE YOU.
IF YOU HAVE QUESTIONS ABOUT
ADMINISTRATIVE DISCHARGES,
ADMINISTRATIVE DEMOTIONS, ETC.,
DON'T HESITATE TO CALL!